

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	04-00404-01-CR-W-FJG
DUANE CARTER,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on February 3, 2006. Defendant Duane Carter appeared in person and with retained counsel Matthew O'Connor. The United States of America appeared by Assistant United States Attorney Stefan Hughes.

I. BACKGROUND

On January 27, 2006, a superseding indictment was returned charging defendant with: (1) one count of possessing a firearm after having been convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2); (2) one count of aiding and abetting the obstruction of commerce by robbery, in violation of 18 U.S.C. §§ 1951 and 2; and (3) one count of brandishing a firearm during the robbery of a business engaged in interstate commerce, in violation of 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Hughes announced that he and David Barnes will be the trial counsel for the government. The case agent to be seated at counsel table is Special Agent Darrell Reach, ATF.

Mr. O'Connor announced that he will be the trial counsel for Defendant Carter.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Mr. Hughes announced that the government intends to call twenty-five witnesses without stipulations or twenty-two witnesses with stipulations during the trial.

Mr. O'Connor announced that Defendant Carter intends to call three witnesses during the trial. Defendant will not testify.

V. TRIAL EXHIBITS

Mr. Hughes announced that the government will offer approximately sixty-eight exhibits in evidence during the trial.

Mr. O'Connor announced that Defendant Carter will offer approximately one exhibit in evidence during the trial.

VI. DEFENSES

Mr. O'Connor announced that Defendant Carter will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. O'Connor stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations have been executed as to prior felony conviction and firearm nexus to interstate commerce.

IX. TRIAL TIME

Counsel were in agreement that this case will take two to three days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed March 29, 2005, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by February 3, 2006;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, February 8, 2006;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, February 8, 2006. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated; there are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on February 13, 2006. The parties request the second week of the trial docket due to a trial conflict with government counsel during the first week.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
February 3, 2006

cc: The Honorable Fernando Gaitan, Jr.
Mr. Stefan Hughes
Mr. David Barnes
Mr. Matthew O'Connor
Mr. Jeff Burkholder